

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Part I. Proposed Action Description

1. Applicant/Contact name and address: Elvin C Peabody Estate, 2232 S Nellis Blvd, G3#117, Las Vegas, NV 89104
2. Type of action: Application to Change a Water Right 39FJ 30119935
3. Water source name: Groundwater
4. Location affected by project: Sections 4 & 5, T1S, R58E, Section 36, T1N, R57E, and Section 31, T1N, R58E, Carter County
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: The Applicant seeks to change Statement of Claim 39FJ 214392-00. The Statement of Claim has a priority date of December 31, 1947 and is for 8 GPM from a well for stock use. The period of diversion and period of use are January 1 through December 31. The point of diversion and place of use are in the NENESW Section 31, T1N, R58E, Carter County. The project is generally located about 7.0 miles south southwest of Ekalaka, MT. The Applicant is requesting to change the place of use to add 3 tanks. The 3 tanks will be placed at fence lines between adjacent parcels and each tank will serve two places of use. The three additional tanks will create six new places of use. The places of use including the existing tank are:

| | | |
|-------------------|-------------|----------------------------------|
| 1) NENESW | Section 31, | T1N, R58E, (existing tank) |
| 2) SE Govt Lot 3 | Section 4, | T1S, R58E, |
| 3) NENESW | Section 4, | T1S, R58E, |
| 4) NE Govt Lot 3 | Section 5, | T1S, R58E, |
| 5) SW Govt Lot 13 | Section 36, | T1N, R57E, |
| 6) SE Govt Lot 6 | Section 36, | T1N, R57E, |
| 7) NE Govt Lot 7 | Section 36, | T1N, R57E, all in Carter County. |

The addition of stock tanks will enable the producer to better utilize available grazing land. The DNRC shall issue a change authorization if an applicant proves the criteria in 85-2-402 MCA are met.

6. Agencies consulted during preparation of the Environmental Assessment:
(include agencies with overlapping jurisdiction)

Montana Department of Natural Resources and Conservation
Montana Department of Fish, Wildlife and Parks
Montana Department of Environmental Quality
United States Fish and Wildlife Service
United States Natural Resource and Conservation Service
Montana Heritage Program
Montana Sage Grouse Habitat Conservation Program
United States Forest Service

Part II. Environmental Review

1. Environmental Impact Checklist:

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| PHYSICAL ENVIRONMENT |
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WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity – The source of water supply is groundwater and therefore not classified as dewatered by the Montana Department of Fish, Wildlife and Parks. The groundwater source has been in use since 1947 and the use will not be increased. No additional effect to water quantity will result from the addition of stock tanks to a stock watering system.

Determination: No impact

Water quality – The groundwater is not listed as impaired by the Montana Department of Environmental Quality and the use of groundwater for stock watering has no potential to degrade groundwater quality.

Determination: No impact

Groundwater – Because the project is only to add stock tanks to an existing stock watering system, no increased groundwater use is proposed, and no degradation of groundwater quality is likely.

Determination: No impact

DIVERSION WORKS – The pipelines from the well to the new stock tanks would be buried. The locations of the new stock tanks would be placed along fence lines to maximize the availability of pasture to the water supply. The construction of the project would cause temporary disruption of areas along the pipeline but wouldn't alter any channels, riparian areas or create barriers. The operation will not create barriers to migration or alter any stream flow or channel characteristics either.

Determination: No impact

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species – According to the Montana Natural Heritage Program, there are six plant species of concern in the project area including Barr’s Milkvetch, Narrowleaf Penstemon, Heavy Sedge, Scribner’s Panic Grass and Tall Dropseed. There are also fifteen animal species of concern including five varieties of bats, nine birds, specifically the Greater Sage Grouse and Golden Eagle, and one butterfly, the Gray Comma. The well in this project has been appropriating groundwater since 1949 and no additional impact would occur to any surface water sources. The pipeline will be buried and create no barriers. The majority of the specific area of the project is not within Sage Grouse Habitat as mapped by the Montana Sage Grouse Habitat Conservation Program. A letter, dated September 17, 2018, from Carolyn Sime, director of the Montana Sage Grouse Habitat Conservation Program states that the project is consistent with the conservation strategy.

Determination: No impact

Wetlands – The only wetlands in the area are reservoirs created by dams for stock water. No wetlands will be affected, and none are proposed.

Determination: No impact

Ponds – The only ponds in the area are reservoirs created by dams for stock water. There are no natural ponds in the project area at present, and none are proposed.

Determination: No impact

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE – The soils in the area consist primarily of fine sandy loams with low slopes. Addition of stock tanks has no probability of degrading soils, altering their moisture content, or leading to saline seep.

Determination: No impact

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS – Existing vegetative cover is native grasses, Grazing has a limited potential to alter native vegetation, but the addition of stock tanks allows the effects of grazing to be less concentrated allowing grasses to recover. It will be the responsibility of the land owner to control and prevent the spread of noxious weeds.

Determination: No significant impact

AIR QUALITY – Addition of stock tanks to a stock watering system has no potential to alter air quality.

Determination: No impact

HISTORICAL AND ARCHEOLOGICAL SITES – The proposed project would have places of use on Montana Board of Land Commissioners Land and on United States Forest Service Lands. Patrick Rennie, DNRC Staff Archeologist, reviewed the project. A Class I (literature review) level review was conducted by the DNRC staff archaeologist for the area of potential effect (APE). This entailed inspection of project maps, DNRC's sites/site leads database, land use records, General Land Office Survey Plats, and control cards. The Class I search revealed that no

cultural or paleontological resources have been identified in the APE, so no additional archaeological investigative work will be conducted in response to this proposed development. However, if previously unknown cultural or paleontological materials are identified during project related activities, all work will cease until a professional assessment of such resources can be made. Halcyon LaPoint, Custer Gallatin Heritage Program Lead, reviewed the proposal for the USFS and determined that the areas had either been inventoried with negative results or had no historic or cultural resources on record.

Determination: No significant impact

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY – The requirement of pumping water to the additional stock tanks will use energy. No other demands on environmental resources of land, water, and energy will be changed.

Determination: No significant impact

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS – There are no known locally adopted environmental plans and goals.

Determination: No impact

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES – There are no local wilderness or recreation areas and no access of any sort through the project area.

Determination: No impact

HUMAN HEALTH - Addition of stock tanks to a stock watering system has no potential to affect human health.

Determination: No impact

PRIVATE PROPERTY - *Assess whether there are any government regulatory impacts on private property rights.*

Yes___ No X___ If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.

Determination: No impact

OTHER HUMAN ENVIRONMENTAL ISSUES - *For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.*

Impacts on:

- (a) Cultural uniqueness and diversity? No significant impact
- (b) Local and state tax base and tax revenues? No significant impact
- (c) Existing land uses? No significant impact
- (d) Quantity and distribution of employment? No significant impact
- (e) Distribution and density of population and housing? No significant impact
- (f) Demands for government services? No significant impact
- (g) Industrial and commercial activity? No significant impact
- (h) Utilities? No significant impact
- (i) Transportation? No significant impact
- (j) Safety? No significant impact
- (k) Other appropriate social and economic circumstances? No significant impact

2. *Secondary and cumulative impacts on the physical environment and human population:*

Secondary Impacts: No secondary impacts are recognized.

Cumulative Impacts: No cumulative impacts are recognized.

3. *Describe any mitigation/stipulation measures:* None

4. *Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:* The only viable alternative to the proposed project is the no-action alternative. The no-action alternative does not prevent any significant environmental impacts and prevents the applicant from increasing the efficiency of his operation and maximizing the use of grazing land.

PART III. Conclusion

1. *Preferred Alternative:* Issue a change authorization if an applicant proves the criteria in 85-2-402 MCA are met.

2 ***Comments and Responses:*** None

3. ***Finding:***

Yes___ No X___ *Based on the significance criteria evaluated in this EA, is an EIS required?*

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action: An environmental assessment is the appropriate level of analysis because no significant impacts were recognized or likely from the addition of stock tanks to an existing stock watering system.

Name of person(s) responsible for preparation of EA:

Name: Mark Elison

Title: Deputy Regional Manager

Date: 11/14/2018